



GOVERNOR'S COMMISSION TO REVISE
THE ANNOTATED CODE
SUITE 301, EXECUTIVE BUILDING
140 MAIN STREET
ANNAPOLIS, MARYLAND 21404
TELEPHONE: 267-5989

2-4-6-21

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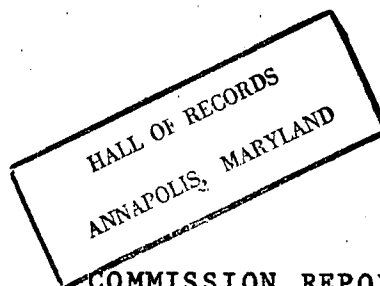
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COMMISSION REPORT NO. 3E

TO THE LEGISLATIVE COUNCIL

TITLE 4 - DISTRICT COURT - JURISDICTION

Attached to this Report is the 10/27/72 Commission Redraft of Title 4 of the Courts Article. This title deals with jurisdiction of the District Court.

At the outset, we refer the Joint Committee to our Report No. 3 of August 14, 1972. On pages 4-7 of that Report, we listed a tentative outline of the Courts Article, showing Title 3 as dealing with jurisdiction of the trial courts and Title 4 as dealing with special causes of action.

The Code Revision Commission has since ~~decided~~ to include in Title 3 materials dealing with jurisdiction and special causes of action with respect to the trial courts of general jurisdiction. Title 4 now contains jurisdictional material pertaining to the District Court.

The new Title 4 contains 5 subtitles:

1. Definitions
2. Jurisdiction in general.
3. Criminal jurisdiction.
4. Civil jurisdiction
5. Juvenile causes in Montgomery County.

While the draft involves little or no substantive change, this Report will bring to your attention several policy matters for

consideration of the Joint Committee.

Subtitle 1 - "Definitions". (page 1)

The definition subtitle is new. Please note that Section 4-101(c) defines "criminal case" as including motor vehicle criminal cases. The use of this definition is substantially similar to that of the definition in Section 12-101(e).

Subtitle 2 - Jurisdiction in general. (page 1).

This one-section subtitle sets forth the general basis for District Court jurisdiction. It is comparable to Section 1-501, pertaining to courts of general jurisdiction, but makes it clear that the District Court has only the jurisdiction granted it by law.

Subtitle 3 - Criminal jurisdiction. (pages 2-8).

This subtitle sets forth the District Court's criminal jurisdiction. Because of the Section 1-401(c) definition of "criminal case" it applies to traffic or motor vehicle cases as well. Like Subtitle 4, Subtitle 3 begins with a statement of exclusive original jurisdiction (Section 4-301); then lists exceptions (Section 4-302); then sets forth certain special jurisdictional provisions (Sections 4-303 and 4-304).

No changes in existing law are intended. Section 4-303 (page 7) is the only provision in this subtitle not having a basis in an existing part of Article 26. This section makes it clear that if a juvenile court waives jurisdiction over a juvenile, and the offense is one normally triable in the District Court, then the District Court has jurisdiction regardless of the age limitations of Section 4-301. Section 4-303 embodies in statutory form the construction set forth in the Attorney General's opinion of 10/14/71 (Daily Record, 10/20/71).

A number of provisions of Article 26 are not included in Subtitle 2. These include Article 26, Section 145(b)(5)(ii), which is a venue provision, and will appear in Title 6 of the Courts Article or in Article 27.

Other excluded provisions are those granting specific powers to District Court judges. When the District Court Act was first adopted, it was useful to place these matters in Article 26, because the Act itself was a consolidation of various pre-existing laws applicable to various pre-existing courts. It was, therefore, important to place the new material in one place and desirable, at the outset, to allocate it with other laws dealing with the District Court.

However, one of the central concepts of the District Court system is that its judges, within jurisdictional limits, have essentially the same powers as other judges. Accordingly, it is now proposed that statutes such as Article 26, Section 145(b)(6) (Warrants, Bond, Bail) and (10) (sentencing), and Section 146 (Suspension of sentence and probation) be codified with Article 27 provisions on the same subjects. There will then be a single set of provisions providing for these matters with respect to all trial judges.

Similarly, Article 26, Section 145(b)(8) (Appointment of counsel) will be handled in Article 27; Section 145(b)(9) (Alcoholics and addicts) in Article 59; Section 145(b)(11) (Local traffic school) in Article 27 or Article 66 1/2; Section 147 (New trial, etc.) in Article 27 and Titles 6 and 11 of the Courts Article, and Section 159 (Juvenile probationary school) in Article 27.

Article 26, Section 145B (peace bonds) (page 10) may require

special consideration. In the 1972 session, this was transferred from Article 52 by the District Court Housekeeping Bill (ch. 181, 1972). At that time, the Code Revision Commission questioned the need for retaining the peace bond procedures, but decided to propose keeping the provision pending further consideration.

The chief judge of the District Court now advises that peace bonds are no longer issued by District Court judges - and have not been since the inception of that court on July 5, 1971. On the basis of this information, and the views of several District Court judges that the peace bond procedure has no current usefulness, the Commission staff proposed the repeal of Section 145B. However, Commission Chairman James and several other commissioners thought the procedure might have some value, particularly in the area of domestic disputes which have not reached the level of actual criminal conduct.

The Commission, therefore, submits the fate of Section 145B to the Joint Committee on Revision of Article 26 for its policy decision.

Subtitle 4 - Civil Jurisdiction (pages 13-19).

As previously explained, the structure of Subtitle 4 parallels that of Subtitle 3. Section 4-401 states the general rule as to exclusive original jurisdiction; Section 4-402 states the exceptions; Section 4-403 states the special provision as to juvenile causes in Montgomery County.

Although no changes in present law are proposed, there are some matters which require the Joint Committee's attention.

Section 4-401(4) (page 14). This paragraph preserves and makes State-wide any civil jurisdiction exercised by the People's Courts

of Anne Arundel, Baltimore, Montgomery, Prince George's, and Wicomico Counties and Baltimore City prior to July 5, 1971 and not otherwise conferred upon the District Court. Of course, the provision is subject to the normal \$5,000 jurisdictional limitation. The present statute is Article 26, Section 145(c)(1).

The Revision Commission questioned the precise nature of the jurisdiction preserved by this statute. It is not a very helpful law, since it tells the reader nothing specific. On the other hand, its retention would seem to do little harm; compare former Section 41C(c) of Article IV of the Constitution, which had a not dissimilar provision pertaining to the former Municipal Court of Baltimore City. Research to determine with precision the jurisdiction involved would be more costly than the matter seems to justify. The chief judge of the District Court believes, however, that at least in Baltimore City this provision may serve some useful purpose.

In any event, the Joint Committee is asked for guidance as to the treatment of this paragraph.

Section 4-401(5) (page 14). On page 7 of our Report No. 3B (9/21/72) we called attention to some of the problems arising from Article 26, Section 145(c)(1), which gives the District Court jurisdiction "in all actions involving landlord and tenant, distraint, forcible entry and detainer ... regardless of the amount involved." The same provision appears as Section 4-401(5), and additional problems must be considered.

One relates to the right to jury trial; see Section 4-402(c) of the draft and Article 26, Sec. 145(c)(3)(ii). Is the "regardless

of the amount involved" language intended to eliminate the right to a jury trial in a landlord-tenant case? In Faller Management Co., Inc. v. Megyeri, Law No. 36833 (10/10/72), the Circuit Court for Montgomery County (Cahoon, J.), decided not. A copy of this opinion is attached.

But suppose that no damages are claimed? In an action of ejectment in which there was no claim for damages, Judge Clapp has ruled that there is no right to jury trial.^{1/} This seems to be what the statute provides, despite the fact that the value of the property (or the right of possession of the property) in such a case may be tremendous.

Did the General Assembly really intend to give the District Court such extensive landlord-tenant jurisdiction? If so, did it intend to eliminate the right to jury trial in the absence of an actual claim for monetary damages exceeding \$500? If so, did it intend that there should be a right to trial de novo on appeal in every such case, in the absence of an actual claim for monetary damages exceeding \$500?

Another point to consider is that extremely critical questions of landlord-tenant law may arise and never be subject to adjudication in the Court of Appeals or Court of Special Appeals if the District Court has exclusive original jurisdiction in all landlord-tenant cases. While this problem exists with respect to other areas of District Court jurisdiction - very critical questions of law may arise in a minor criminal case or a civil case involving less than \$500 - the likelihood of this occurring is lessened by the concurrent jurisdiction

1 A copy of Judge Clapp's opinion will be furnished after distribution of this memorandum.

and jury trial provisions clearly applicable to the other situations.

The somewhat scanty "legislative history" of this provision is set forth in the Revisor's Note on page 15 of the draft. It is not particularly helpful in finding a solution.

It may be, of course, that the District Court should have exclusive original jurisdiction over all landlord-tenant proceedings subject to whatever constitutional jury trial rights may exist. On the other hand, the general scheme of District Court jurisdiction suggests that the legislature intended to give the circuit court concurrent jurisdiction where relatively substantial amounts were involved, and exclusive jurisdiction if the damages claimed exceeded \$5,000. Such a rule could be applied readily enough in landlord-tenant cases involving money damages, but it would be more difficult to apply in cases lacking a specific monetary claim.

A number of possible approaches were considered by the Revision Commission, although the Commission members did not think they had the expertise to make a firm recommendation in this regard.

One possibility would be to draw the jurisdictional line between cases involving long term leases with some time yet to run (circuit court) and shorter tenancies such as those from month-to-month (District Court). Another possibility would be to restrict District Court jurisdiction to residential leases, giving the circuit court at least concurrent jurisdiction with respect to commercial leases. Still another would be to limit District Court jurisdiction to those involving claims for possession of premises only, and not money damages, or at least giving the circuit court concurrent jurisdiction in the event of a money damage claim exceeding \$2,500.

The problem of appellate review could be resolved by providing for appeals directly from the District Court to the Court of Special Appeals or for a certification procedure whereby important legal questions could be transferred to one of the Courts of Appeal for decision. However, the Commission believes that the entire question of appeals from the District Court should be a subject for separate consideration, and if the State moves towards a single-tier trial court system, the appeal problem will have to be resolved as part of the adoption of that system. The question requiring consideration now is basically that of allocation of jurisdiction in the landlord-tenant area.

Unfortunately, our requests for guidance from the Landlord-Tenant Commission in this matter have not been answered.

Section 4-401(6). (page 14). Section 4-402(b) prohibits the District Court from deciding questions of title to real property, as does the present law. The Commission submits to the Legislative Council the question of whether there should be an exception to this rule with respect to the grantee suit jurisdiction conferred by Section 4-401(6).

Section 4-402(c). (page 16). This is new language dealing with declaratory judgments. Article 31A, Section 1 in effect provides that any court of record has jurisdiction in a declaratory judgment action. The District Court is a court of record. However, the Commission does not believe that anyone intended it to have declaratory judgment jurisdiction and the chief judge of the District Court agrees with this position. The subsection is added to make this situation clear.

Section 4-402(e). (page 16). The jury trial provision is slightly reworded. The present statute speaks of a demand for jury trial "within such time as prescribed by rule". The Commission has inserted a specific reference to the Maryland District Rules, which in fact govern the situation; see M.D.R. 343. As the subsection is written, a rule in this area would have to be one adopted by the Court of Appeals as opposed to one adopted by the chief judge of the District Court. The Commission felt that this was probably the legislative intent.

Repealers and Transfers. (pages 17-19). The treatment of the various provisions of Article 26 reproduced on pages 17-19 of the draft is largely self-explanatory and consistent with the principles followed in connection with subtitle 3.

Special attention is called to the proposed repeal of Article 26, Section 145(f) (page 18). This provision, dealing with removal, has been superseded by M.D.Rs. 542 and 738. The statutes and the rule are in complete conflict and it is confusing to have both of them on the books. At the 1972 session, SB 531 and HB 246 were introduced for the purpose of superseding the rule. Neither passed. In view of this legislative history, it is suggested by the Commission that Article 26, Section 145(f) now be proposed for repeal.

Subtitle 5 - Juvenile causes in Montgomery County (pages 20-50).

The general laws dealing with juvenile causes will appear in Title 3 of the Courts Article. The Commission studied the possibility of attempting a consolidation of these provisions and the special provisions pertaining to Montgomery County but concluded that this would not be feasible. Consequently, the decision was made to place the Montgomery County laws in Subtitle 5 of Title 4. Except for

minor rearrangements in style, the statutes dealing with juvenile causes in Montgomery County remain essentially unchanged. The Revisor's Notes explain the few modifications proposed by the Commission.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "W. H. Adkins, II", written in a cursive style.

William H. Adkins, II
Director

WHA:jc